

General Terms and Conditions for Supply of Goods and Services of AEI Power GmbH (as of: July 2014)

General

Terms and conditions which deviate from the following Terms and Conditions shall only be binding for us if they have been agreed upon in writing. This shall also apply insofar as the written form shall be waived upon the conclusion of the contract. If additional written agreements are made, these Terms and Conditions shall apply by way of supplement and with subordinate effect to these Terms and Conditions. Separate service terms and conditions shall apply additionally for assembly and repair work. Consumer shall be defined in the following as defined in § 13 German Civil Code (*Bürgerliches Gesetzbuch, BGB*).

I. Offer

Our offers, cost estimates as well as the information stated in our web shop and our catalogs are - insofar as not expressly stated otherwise - subject to change. A contract shall only come into effect upon the order confirmation by us. Cost estimates, drawings and other documents may not be either transferred to third parties or otherwise made accessible to them.

II. Prices

If the customer is not a consumer, the prices for delivery of supply of goods and services shall be understood to be ex works, excluding packaging, transport, insurance, assembly and commissioning, insofar as not expressly otherwise indicated in our offer or our order confirmation, plus the VAT applicable at the date of the shipment.

III. Delivery

1. Delivery dates are binding only if expressly agreed upon in writing. In case of doubt, the delivery dates stated in the order confirmation shall apply, insofar as these are not expressly stated to be non-binding. Delivery dates agreed upon shall be deemed to be complied with also upon notification that the goods are ready for shipment if the goods can not be delivered or the services can not be performed in a timely manner through no fault on our part.
2. We shall be entitled to make delivery in installments with respective invoicing. The agreed delivery dates shall be extended for a reasonable time period if they cannot be met for reasons of labor disputes including such which concern suppliers.

IV. Transfer of Risk; Shipment

If the customer is not a consumer, delivery shall be effected "ex works" insofar as not otherwise expressly agreed. The risk of accidental destruction, loss and deterioration shall therewith be in principle transferred to the customer if we hold the goods ready for collection and inform the customer hereof or dispatch the goods. Should the shipment be delayed as a consequence of circumstances for which we are not responsible, the risk shall pass to the customer as of the date of notification that the goods are ready for shipment. Shall the goods be shipped to another location at the request of the customer who is not a consumer without the customer stating a certain type of shipment, we shall be entitled to freely select the type of shipment at our discretion. Shipment costs shall be borne by the customer. We shall only take out transport insurance upon the instruction of the customer and at its cost.

V. Warranty

1. The terms in our Warranty Certificate apply in addition regarding the contractual warranty claims (in the sense of the German legal term "Gewährleistungsansprüche") for inverters. The statutory warranty for claims of defects (in the sense of the German legal term "Gewährleistungsansprüche") shall be time-barred after one year if the customer is not a consumer. The afore-mentioned reduction of the statute of limitations period shall not apply insofar as a longer period is prescribed by law according to § 438, para. 1, No. 2 BGB (Building constructions and products for building constructions), § 634a, para. 1, No. 2 BGB (construction defects), § 479 BGB (recourse claims) or in the cases of mandatory liability pursuant to Clause VI.2. The recourse claim of the purchaser against the seller pursuant to § 478 BGB shall not apply insofar as the customer has come to an agreement with its customers which extends beyond the scope of application of the statutory provisions for claims based on defects.
2. Insofar as the customer is not a consumer, we shall be entitled in the case of a warranty claim (in the sense of the German legal term "Gewährleistungsanspruch"), at our discretion, to either remedy the defect at our premises or deliver a new defect-free product. Remedy of defects at the site of installation shall occur only within the framework of special agreements according to our valid service conditions. We shall bear the costs of the most economical shipment from and to the delivery address agreed for the original shipment of the goods, provided the complaint is proved to be justified. Additional costs which accrue because the customer has later brought the goods to a location other than the delivery address or the point of destination foreseen according to the contract shall be borne by the customer.
3. Insofar as the customer is not a consumer, he shall give us or any third party engaged by us to perform the warranty work sufficient time and the opportunity to carry out the warranty work, insofar as we do not refuse subsequent performance, before he can declare rescission, reduction of the price or damages due to non-performance. Upon our request, the customer shall be obligated to declare within a reasonable period whether he wishes to rescind the contract.
4. The statute of limitations period shall be interrupted (in the sense of the German legal term "gehemmt") for the duration of the time required for the subsequent performance. It shall not begin anew.
5. Spare parts deliveries and the return shipment of repaired goods shall occur, if such is not covered by the liability for defects of quality or guarantee, with a charge of reasonable shipment and packaging costs in addition to the payment for the performance undertaken by us. Returns to us as well as shipments for repair work shall occur - beyond liability for defects of quality and guarantee - in principle with free delivery. Should the claim of defects be proved to be unjustified, we shall be entitled to invoice all of our costs to the customer.

VI. Liability

1. All damage claims and claims of reimbursement of costs of the customer (hereinafter referred to as "Damage Claims") against us, regardless of the legal grounds, including breach of obligations in connection with the contract, fault in conclusion of a contract (*culpa in contrahendo*), due to other breaches of obligations or tort claims are precluded.
2. The preclusion of liability pursuant to Clause VI.1 hereof shall not apply however in cases of intentional (in the sense of the German legal term "vorsätzlich") or grossly negligent action by us or one of our representatives, employees or other vicarious agents which is the underlying basis of the Damage Claims; in cases of damage culpably caused by us or one of our representatives, employees or other vicarious agents which results in death, injury to body or health and which is the underlying basis of the Damage Claims; as well as in view of the mandatory liability by law in particular according to the German Product Liability Act (*Produkthaftungsgesetz*) and in cases of a breach of guarantee promises (in the sense of the German legal term "Garantiersprechen") by us; in cases that we or one of our representatives, employees or other vicarious agents negligently breach an essential contract obligation; in this last case, our

liability is limited however to the amount of damage which is customarily foreseeable. Otherwise, insofar as the liability is not precluded pursuant to Clause VI.2 hereof, the statutory provisions shall apply with regard to the amount of liability.

3. Insofar as the liability for Damage Claims against us is precluded or limited, this shall also apply with regard to the personal Damage Claims liability of our representatives, employees or other vicarious agents.
4. The above stated provisions do not imply a shift of the burden of proof to the detriment of the customer and do not preclude any claims expressly granted in these General Terms and Conditions.

VII. Retention of Title

1. The purchased goods remain our property (in the sense of the German legal term "Eigentum") until complete payment of the purchase price (hereinafter referred to as "Goods Subject to Retained Title"). The customer shall store (in the sense of the German legal term "verwahren") the objects subject to our ownership or co-ownership at no charge as a contractual ancillary obligation. The customer is not entitled to bring the Goods Subject to Retained Title outside Germany without our express, written permission. If the customer is not a consumer, the purchased goods remain Goods Subject to Retained Title up until payment of all accounts receivables to which we are entitled on any legal grounds against the customer now or in the future.
2. Only a customer who is not a consumer shall be entitled to connect Goods Subject to Retained Title in the ordinary course of business with real property/buildings and to sell such with cash payment or subject to retention of title. This right exists, however, in any case only as long as the customer is not in default of payment. Pledges or transfers of the goods by way of security shall not be permitted. Claims resulting from the resale, the connection with real property/buildings or any other legal grounds (e.g. insurance, tort) relating to the Goods Subject to Retained Title are assigned by the customer including all ancillary rights already now to us by way of security in the amount of our accounts receivable. We accept the assignment. Upon our demand, the customer shall notify us in writing without undue delay regarding the identity of the party to whom he sold the goods which are subject to our ownership or co-ownership, with which real property/buildings he connected the Goods Subject to Retained Title or where these otherwise are located and which claims he is entitled to from the resale, the connection or on any other legal grounds (e.g. damages due to damage) for the Goods Subject to Retained Title as well as to issue us publicly certified documents related to the assignment of the claims.
3. We authorize the customer who is not a consumer, revocably, to collect the accounts receivable assigned to us for his account in his own name. In the event that the customer makes the claim, he shall be obligated to maintain the amounts obtained separately from all funds or assets of the customer or third parties. This shall have no influence on our right to make this claim ourself. We shall, however, make no claims as long as the customer meets his financial obligations in a timely manner and no application for the opening of an insolvency proceeding is made regarding the assets of the customer.
4. After rescission (in the sense of the German legal term "Rücktritt") of the contract, we shall have unrestricted authority to take back, sell or otherwise proceed with or dispose of the Goods Subject to Retained Title and the customer shall be obligated to surrender such. Up until the date that the ownership to the Reserved Goods passes to the customer, the customer shall hold the Goods Subject to Retained Title as trustee (in the sense of the German legal term "Treuhand") and shall take action to assure that the goods are properly stored, protected and insured.
5. Upon third party access to the Goods Subject to Retained Title, in particular, seizures, pledges, taking of possession or other interferences, the customer shall be obligated to point out our ownership and to notify us without undue delay so that we can enforce our ownership rights. Insofar as the third party is not in a position to reimburse the court or extra-judicial costs accruing in this connection, the customer shall be liable herefor.
6. If the afore-mentioned regulation regarding retention of title is invalid, in whole or in part, under the laws of the country in which the product is located, a respective security shall be deemed agreed upon which is, as far as possible, the equivalent to the retention of title. If the co-operation of the customer is required for the creation of such rights and/or for the retention of title, the customer shall take all measures necessary for the establishment and preservation of such rights and for the retention of title.

VIII. Payments

1. The customer declares his agreement that he shall receive invoices from us, at our choice, also exclusively in electronic form. We are entitled to set-off payments against our oldest accounts receivable due.
2. If the customer is in default of payment, we shall be entitled to perform still-outstanding deliveries only upon payment in advance or against provision of securities. If the financial situation of the customer deteriorates substantially after conclusion of the contract, we shall be entitled to rescind the contract, insofar as the customer is not prepared, in spite of a respective demand, to make contemporaneous payment or provide security.
3. The customer can only set-off payments with such claims which are undisputed or finally determined with res judicata effect.

IX. Jurisdiction; Applicable Law

1. Jurisdiction has the court of Bad Urach, Germany, for a value in litigation of up to and including € 5,000.00 and for a higher value in litigation the court of Tübingen, Germany, if the customer is a merchant, a public law entity or an institution of special funds under public law. We are also entitled to sue the customer before the courts having jurisdiction at the place of the seat or a branch of the customer. Any exclusive jurisdiction shall remain unaffected herefrom.
2. All legal relationships between us and the customer shall be governed by German substantive law excluding the United Nations Convention on the International Sale of Goods (CISG) and private international law.